

Section 222 and 275(d) of the Act, are currently the subject of the Commission's Notice of Proposed Rulemaking ("NPRM") in *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96 - 115. At paragraph 47 of the NPRM, the Commission tentatively concludes that a customer's authorization given under Section 222(c)(1) would not extend to any records concerning the occurrence of calls received by alarm monitoring service providers.

SWBT intends to comply with Section 275 in all respects, and of course will abide by the Commission's final rules implementing it. However, the actual rules governing implementation of both Sections should be fleshed out in Docket No. 96 - 115 after Commission deliberation on the comments received, not in the context of this proceeding in which but a few parties are involved. In any case, it preliminarily appears that the Commission's tentative conclusion referenced above may be fairly stated. If so, SWBT would concur that customer approval given under Section 222(c)(1) would not extend to data indicating the occurrence of calls received by alarm monitoring service providers, and that it could not use information concerning the content of calls received by such providers to market such services. Of course, CPNI would include information beyond occurrence and content of calls, and a customer still may approve usage of such information consistent with both Section 222(c)(1) and Section 275(d)(1). SWBT's CEI Plan provisions say no more. Thus, AICC's concerns are not well taken and no plan amendment is necessary.

**A. SWBT WILL WITHDRAW THIS CEI PLAN IF THE BUREAU DETERMINES THAT SUCH A PLAN IS NOT REQUIRED BY PREVIOUS COMMISSION ORDERS**

Ameritech implies that SWBT must be the provider of the alarm monitoring service inasmuch as the Plan was filed.<sup>27</sup> To the contrary, SWBT understands an approved CEI plan is required prior to a BOC selling or otherwise marketing an enhanced service. If the Bureau determines that there is no such requirement when the BOC is merely acting as a sales agent, SWBT asks for confirmation of such a limitation and would thereafter withdraw this CEI plan.

**V. CONCLUSION**

Having addressed the single issue raised in response to SWBT's proposed CEI Plan, the Bureau should approve the Plan forthwith. Section 275 does not provide a basis on which to reject the CEI Plan. SWBT has demonstrated the CPE activities that it will contract for with

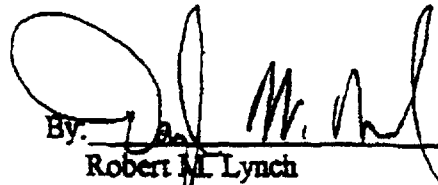
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<sup>27</sup> Ameritech, pp. 2, 3.

customers, and the billing and collection, and sales agency activities that it will perform for the provider of the alarm monitoring service do not violate Section 275.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE  
COMPANY

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EX PARTE ON LINE FILED

July 18, 1996

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JUL 18 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Southwestern Bell Telephone Company's CEI Plan for Security Service,  
CC Docket Nos. 85-229, 90-623, 95-20

Dear Mr. Caton:

In accordance with the Commission's rules regarding ex parte presentations, please be advised that today, Steven Dimmitt, Michael Zpevak, Anthony Conroy, Kevin Haberberger and I representing Southwestern Bell Telephone Company (SWBT) met with Carol Matney, Deputy Chief and Claudia Pabo, Legal Assistant to the Chief, Policy and Program Policy Division, Common Carrier Bureau, to discuss SWBT's pending Comparably Efficient Interconnection Plan for Security Service.

Written materials, which were used during our discussion, are attached to this letter to be included in the official record.

Should you have any questions regarding this subject matter, please don't hesitate to contact me.

Sincerely,

Todd F. Silberfeld

Attachments

cc: Ms. Carol Matney  
Ms. Claudia Pabo

I. OUTLINE OF SOUTHWESTERN BELL TELEPHONE COMPANY'S (SWBT'S) PROPOSED SECURITY SERVICE COMPARABLY EFFICIENT INTERCONNECTION (CSI) PLAN

SWBT's proposal contemplates the following:

- A) SWBT would undertake three distinct activities.
- \* Provide, install and maintain Customer Premises Equipment (CPE) purchased by the customer.
  - \* Provide billing and collections (B&C) services to the alarm monitoring service provider.
  - \* Act as a sales agent for the alarm monitoring service provider.
- B) Customers remain free to select the security service arrangement best suited to their needs.
- \* CPE only or CPE plus Monitoring - SWBT's proposal would allow customers to purchase alarm monitoring equipment from SWBT. Customers remain free, however, to purchase the equipment elsewhere. Customers who choose to purchase equipment offered by SWBT may, but need not, subscribe to the alarm monitoring service which SWBT would offer as a sales agent. They remain free to subscribe to any other alarm monitoring service, or to not subscribe to any monitoring service at all.
- C) The alarm monitoring service customer maintains a direct customer-provider relationship with the unaffiliated alarm monitoring service provider.
- \* Contracts - The customer will enter into a written contract with the alarm monitoring service provider, detailing the obligations and liabilities of each party. The contract alone controls the terms, conditions and price of the alarm monitoring service rendered.
  - \* Billing - Two separate and distinct charges will be prominently displayed on SWBT's bill:
    - The alarm monitoring service provider's service name will be clearly identified along with its associated charges.
    - A separate charge consisting of SWBT's associated CPE charge will also appear, when applicable.
- Telephone service will not be disconnected by any customer's failure to pay for the monitoring service and/or CPE charges.
- \* Charges - The contract between the customer and the provider of alarm monitoring services will control/set the charges the customer agrees to pay for these services.

- \* Customer Collateral - All sales and other contacts with customers will identify the alarm monitoring service provider. All promotional and other informational material (e.g., sales brochures), yard signs, window stickers and the like will identify the alarm monitoring service provider.
  - \* Customer Inquiries - Inquiries about the alarm monitoring service (as opposed to equipment or billing inquiries) will be referred to the unaffiliated alarm monitoring service provider.
- D) SWBT will not share in the revenues earned by the alarm monitoring service provider.
- \* SWBT will collect customer payments, and will deduct
    - (1) billing and collections charges payable by the provider, and
    - (2) sales commissions payable by the provider. SWBT will remit the net balance to the provider.
- E) SWBT will not alter or exert control over the customer-provider relationship:
- \* Changes to or termination of the SWBT/alarm monitoring service provider sales relationship will not affect the customer's contract with the monitoring entity or the relationship between the two.
  - \* SWBT does not have the right to exercise any control over the customer accounts for the duration of the alarm monitoring prohibition.
- F) SWBT will continue to comply with any/all requirements or regulations designed to ensure a level playing field for all, including:
- \* Comparably Efficient Interconnection (CEI) requirements
  - \* Open Network Architecture (ONA) Plan requirements
  - \* Cost Allocation Manual (CAM) guidelines
  - \* Customer Proprietary Network Information (CPNI) restrictions
  - \* Billing/Collections Generic Contract provisions
- G) Complaint process is in place to ensure recourse in matters of dispute.
- H) If CEI Plan is not required for sales agency relationships associated with enhanced services, SWBT will withdraw Security System CEI Plan filing.

II. SWBT'S PROPOSED ACTIVITIES, INCLUDING ITS LIMITED ROLE AS A SALES AGENT FOR AN UNAFFILIATED ALARM MONITORING SERVICE PROVIDER, DO NOT CONSTITUTE BEING ENGAGED IN THE PROVISION OF ALARM MONITORING SERVICES UNDER APPLICABLE LEGAL PRECEDENT

A) There is no substantial dispute that SWBT may perform non-sales agency related activities in support of alarm monitoring services.

- \* SWBT may lawfully provide billing and collection (B&C) services to alarm monitoring service providers. The Alarm Industry Communications Committee (AICC) has no objection to SWBT being compensated for its billing and collection services. AICC Comments, p. 13, n. 17. SWBT currently provides B&C services related to alarm monitoring service providers' charges.
- \* SWBT may lawfully provide CPE to customers of alarm monitoring service providers. AICC agrees that SWBT may "provide sales, installation and maintenance of alarm monitoring CPE." AICC Comments, p. 3, n. 6. Ameritech acknowledges that SWBT would sell, install and service CPE, and does not object to it. Ameritech, p.2.
- \* Neither the providing of these B&C services nor this CPE constitutes being engaged in the provision of alarm monitoring services.

B) Acting as a sales agent for one who provides a service does not mean that the agent is engaged in the provision of the service.

- \* CPE Sales Agents: CPE vendors who act as sales agents within the various BOCs' CPE Sales Agency Plan programs do not engage in the provision of network services as a result. Rather, these agents sell "telephone company-provided" intrastate network services. Sales Agency Order, 98 FCC 2d 943 (1984), para. 23. AICC's attempt to distinguish this Order as authorizing items the BOCs already had been allowed to provide is unavailing. AICC, June 20, 1996 ex parte, at p. 7.
- \* First, AICC's claim that SWBT is attempting to do indirectly what it is prohibited from doing directly only begs the question of whether SWBT's Sales Agency arrangement is tantamount to "provision."
- \* Second, the Sales Agency Order allowed BOCs' affiliates to do what the BOCs could not themselves do - market CPE/enhanced services jointly with network services. AICC is wrong in claiming that the BOCs were allowed to provide both, for under Computer II the BOCs could not provide CPE/enhanced services themselves.

The Sales Agency Order did not refuse to authorize commission sales of interstate services. It authorized some such sales, and indicated that the record before it was insufficient to allow the Commission to consider the ramifications of authorizing others. Sales Agency Order, para. 19; Reconsideration Order, FCC 85-582, para. 33.

- \* Cellular Agents: Cellular carriers routinely use authorized use sales agents to sell their telecommunications services. In such instances, courts regard the cellular carrier, not its authorized agent, as the "provider" of cellular service. SWBT Comments, p.9, n.15.

\* Conclusion:

As in the case of CPE Sales Agency Plan agents and cellular agents, none of whom are engaged in the provision of telecommunications services, SWBT's role as a sales agent for an alarm monitoring service provider does not constitute its being engaged in the provision of alarm monitoring services. SWBT's additional activities of providing B&C services to a provider and of providing CPE to customers, who remain free to choose from a wide variety of providers, are likewise lawful and do not implicate Section 275(a)(1).

III. AICC'S CLAIM THAT THE BUREAU MUST DETERMINE WHETHER SWBT'S ACTIVITIES WOULD VIOLATE SECTION 275 IS MISPLACED

- \* SWBT has only asked the Bureau to approve SWBT's CEI Plan.
- \* The Bureau's approval of SWBT's CEI Plan would be consistent with its action in the Bell Atlantic CEI Order, in which the Commission also rejected a commentator's claim that CEI approval would authorize various violations of the Telecommunications Act. As in that matter, "[t]his proceeding is limited to determining whether [the] CEI plan complies with the Commission's Computer III requirements." Bell Atlantic CEI Order, para. 47.

**CERTIFICATE OF SERVICE**

I, Katie Turner, hereby certify that the foregoing Comments of SBC Communications Inc., CC Docket No. 96-152, have been served this 4th day of September 1996 to the Parties of Record.

  
Katie Turner

September 4, 1996

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